

RULE-MAKING ORDER

CR-103 (June 2004) (Implements RCW 34.05.360)

20, 1889	(
Agency: Office of the Secretary of State, Elections Division	☑ Permanent Rule☑ Emergency Rule		
Effective date of rule:	Effective date of rule:		
Permanent Rules	Emergency Rules		
□ 31 days after filing.	Immediately upon filing.		
	Later (specify)		
Other (specify) (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated be			
Any other findings required by other provisions of law as pro ☐ Yes ☐ No If Yes, explain:	econdition to adoption or effectiveness of rule?		
Purpose: The Cycle 4 Rules of 2007 address issues such as the			
voter registrations, provisional and absentee ballot oaths, and	voting systems.		
Citation of existing rules affected by this order:			
	-219-165, 434-219-220, 434-219-170, 434-219-180, 434-219-260,		
	-219-103, 404-219-220, 434-219-170, 434-219-100, 434-219-200,		
434-219-280			
	-219-100, 434-219-110, 434-219-120, 434-219-140, 434-219-150,		
434-219-185, 434-219-190, 434-219-210, 434-219-230, 434-219-240, 434-219-240, 434-219-240, 434-219-240, 434-219-240, 434-240, 434-240,			
330, 434-219-340, 434-230-060, 434-230-160, 434-250-040, 434-250-0			
261-055, 434-324-005, 434-324-010, 434-324-040, 434-324-045, 434-33	35-030, 434-335-060		
Suspended:			
Statutory authority for adoption: 29A.04.611			
Other authority :			
PERMANENT RULE ONLY (Including Expedited Rule Making			
Adopted under notice filed as WSR 07-21-138 on October 2	.4, 2007 (date).		
Describe any changes other than editing from proposed to ac			
If a preliminary cost-benefit analysis was prepared under RC	W 34.05.328, a final cost-benefit analysis is available by		
contacting:			
	,		
Name: phone ()		
Address: fax ()		
e-mail `			
EMERGENCY RULE ONLY			
Under RCW 34.05.350 the agency for good cause finds:			
That immediate adoption, amendment, or repeal of a ru			
health, safety, or general welfare, and that observing the	e time requirements of notice and opportunity to		
comment upon adoption of a permanent rule would be			
☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires			
immediate adoption of a rule.			
	CODE REVISER USE ONLY		
Date adopted: November 30, 2007	CODE REVISER USE UNLT		
NAME (TYPE OR PRINT)	AFFIRE OF THE CORE DELIVER		
Steve Excell	OFFICE OF THE CODE REVISER		
OLEVE LAUGII	STATE OF WASHINGTON		
SIGNATURE	FILED		
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TITLE			
TITLE	WSR 07-24-044		
Assistant Secretary of State			

(COMPLETE REVERSE SIDE)

Note: If any category is left blank, it will be calculated as zero. No descriptive text.

Count by whole WAC sections only, from the WAC number through the history note. A section may be counted in more than one category.						
The number of sections adopted in or	der to co	omply with:				
Federal statute:	New		Amended		Repealed	
Federal rules or standards:	New		Amended		Repealed	
Recently enacted state statutes:	New		Amended	4	Repealed	
The number of sections adopted at th	e reques	t of a nongo	vernmental e	entity:		
	New		Amended	2	Repealed	
The number of sections adopted in th	e agency	/'s own initia	tive:			
	New	3	Amended	32	Repealed	<u>9</u>
The number of sections adopted in or	der to cl	arify. stream	line. or refor	m agency p	rocedures:	
	New	<u>3</u>	Amended		Repealed	9
	inew	<u>ა</u>	Amended	<u>34</u>	Repealed	<u>9</u>
The number of sections adopted usin	g:					
Negotiated rule making:	New	<u>3</u>	Amended	<u>34</u>	Repealed	<u>9</u>
Pilot rule making:	New		Amended		Repealed	
Other alternative rule making:	New		Amended		Repealed	

Chapter 434-219 WAC

PRESIDENTIAL ((PREFERENCE)) PRIMARY

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

WAC 434-219-050 Procedures to be followed when changing primary date. If the date of the presidential primary is changed ((under)) pursuant to RCW ((29.19.020 and WAC 434-75-040)) 29A.56.020 from the fourth Tuesday in May to another date, the secretary of state shall promptly notify the county auditors and the chairperson of the national committee of each major political party, in writing, of that date.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

WAC 434-219-060 Designation of candidates by secretary of state. Not less than ninety days prior to the date set for the presidential primary, the secretary of state shall compile a list of persons whose candidacy for the office of President of the United States is generally advocated or whose candidacy is generally recognized in the national news media. He or she shall promptly notify, in writing, the county auditors, the chairperson of each major political party, and each of the candidates whose names will be placed on the ballot at the presidential primary unless the candidate withdraws under WAC ((434-75-070)) 434-219-115.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

WAC 434-219-080 Petition process for ballot access. Members of a major political party may petition the secretary of state,

pursuant to the provisions of RCW ((29.19.030(2))) 29A.56.030, to include on the presidential primary ballot the name of any candidate of that party not designated by the secretary of state under WAC 434-219-060. Petitions may be circulated for signatures not earlier than the first day following the designation of candidates by the secretary of state under WAC 434-219-060. Such petitions must be filed with the secretary of state not later than $((the\ thirty-ninth\ day\ preceding))$ sixty days prior to the primary, shall be accompanied by a signed, notarized statement by the candidate concerned giving his or her consent to the nomination, and must bear the signatures of at least one thousand persons registered to vote in the state of Washington at the time the petition signatures are verified.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

WAC 434-219-100 Verification of signatures by secretary of state. Upon receipt of any nominating petition filed pursuant to WAC 434-219-080, the secretary of state shall promptly canvass and verify the signatures in order to determine the validity of the The secretary may reject, without verification of signatures, any petition that clearly bears insufficient signatures, any petition that is not accompanied by a consent to the nomination by the candidate, or any petition that is in a form inconsistent with the provisions of WAC 434-219-090. To the extent that it is not inconsistent with other provisions of these rules, the canvass and verification process may be observed in the same manner as that specified in RCW ((29.79.200)) 29A.72.230 for the observation of the canvass and verification of initiative signatures. The secretary of state shall reject the signature of any person not registered to vote in Washington, and any multiple signatures from the same voter. No signature may be rejected solely on the basis that it is not accompanied by the address or precinct name or number of the signer.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

wac 434-219-110 Determination of ((insufficient signatures)) sufficiency. In the event the secretary of state determines that the petition ((contains)) bears insufficient valid signatures, he or she shall notify the person filing the petition and the candidate on whose behalf the petition was filed. Persons so

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notified may submit additional signatures in support of the nomination as long as those signatures are submitted prior to the deadline established by RCW ((29.19.030)) 29A.56.030.

In the event the secretary of state determines the petition bears sufficient signatures, he or she shall add that candidate in the official certification of candidates to the county auditors.

NEW SECTION

WAC 434-219-115 Withdrawal. Each candidate shall appear on the primary ballot unless, not later than fifty-two days prior to the primary, the candidate files with the secretary of state a signed, notarized statement that he or she is not now and will not become a candidate for president. The secretary of state shall promptly notify the county auditors, the chairperson of the national political party of that candidate, and all remaining candidates of any names removed from the list of candidates for the presidential primary.

<u>AMENDATORY SECTION</u> (Amending WSR 00-03-003, filed 1/6/00, effective 2/6/00)

WAC 434-219-120 Certification of candidates. ((In the event the secretary determines a petition bears sufficient signatures he or she shall include the name of that candidate in the official certification of candidates to the county auditors. This certification shall be completed and transmitted to the county auditors not later than the thirty-fourth day prior to the primary.)) Immediately following the last day for candidates to withdraw, the secretary of state shall certify to the county auditors the final list of candidates who will appear on the presidential primary ballot.

AMENDATORY SECTION (Amending WSR 99-22-073, filed 11/2/99, effective 12/3/99)

WAC 434-219-140 Party declarations ((by voter)). (1) ((Each registered voter desiring to participate in the presidential primary shall be given the opportunity to subscribe to any declaration provided under the national or state political party

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rules of a major political party for participation in the presidential nominating process of that party.

- $\frac{(2)}{(2)}$) No later than August 15 in the calendar year preceding the year in which the presidential preference primary is to be held, the state chair of each major party shall submit in writing to the secretary of state the exact wording of ((the)) any party declaration required by rules of the state or national party.
- $((\frac{3}{2}))$ The secretary of state shall certify the language of each major party's declaration to the county auditors no later than August 30 in the calendar year preceding the year in which the presidential preference primary is to be held.
- ((4) A voter may subscribe to a declaration stating that he or she wants his or her vote to be counted in the unaffiliated results, provided that failure to subscribe to this declaration does not prevent any person's vote from being counted in the unaffiliated results. The unaffiliated declaration shall be printed in substantially the following form: "I do not want to sign a party declaration. I understand that party rules may not allow my vote to be used to select delegates to the nominating conventions.")) (3) Each registered voter desiring to participate in the presidential primary of a major party that requires a declaration shall subscribe to the declaration.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

- WAC 434-219-150 ((Ballot request form used)) Party declaration at the polling place. (1) At a polling place, the political party declaration ((provided under WAC 434-219-140, when provided to a voter desiring to vote at a polling place,)) may appear on either:
- (a) A paper form of uniform size for each voter. The form shall identify the presidential primary, the major political party, and the date, and shall have space for the voter to sign his or her name and address. The voter's precinct shall be clearly indicated on the form. Multiple-part reproducible forms may be used for this purpose. The signed ((ballot request)) forms shall be collected by the precinct election officers and transmitted to the county auditor at the end of the voting day; or
- (b) A format printed in the poll book which would permit the voter to sign his or her name and address and to indicate his or her political party ((preference)) affiliation, if any((; or
- (c) Separate poll books for each major political party distinct from the poll books for voters who do not subscribe to the declaration of any major political party)).
- (2) The county auditor shall provide appropriate instructions for the precinct election officers regarding the handling, maintaining, and transportation of the political party

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declarations.

NEW SECTION

- WAC 434-219-155 Party declaration for absentee ballots. (1) Each political party declaration shall be printed on the return envelope with the standard absentee ballot oath required by WAC 434-250-050. Each declaration shall be printed with a checkbox for voters to indicate the party declaration to which they subscribe. The county auditor shall provide an instruction for the party declarations substantially similar to the following: "You must mark a party checkbox in order for your presidential primary vote to count. You may only select one party."
- (2) The date and signature lines for the absentee ballot oath shall also serve as the date and signature lines for the political party declaration.
- (3) In addition to other instructions normally provided to absentee voters, the county auditor shall ensure that voters are given specific instructions on how to mark their ballot so that it will be counted in accordance with the oath they signed on the return envelope.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

WAC 434-219-185 Logic and accuracy tests ((decks)). ((No later than fifteen days before the date of the presidential primary, the county auditor shall provide for the preparation of a test deck for logic and accuracy testing. No later than thirty days before the date of the presidential primary, the county auditor in consultation with the office of the secretary of state shall schedule a logic and accuracy test so that a representative of the office of the secretary of state can be present during the test. A representative of the secretary of state shall observe and certify that the test was conducted. Excluding the provisions in this chapter the procedures for)) The logic and accuracy test shall be conducted pursuant to the provisions of chapter ((434-333)) 434-335 WAC and RCW ((29.33.350)) 29A.12.130.

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AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

WAC 434-219-190 Special election held in conjunction with the presidential primary. If a special election is scheduled concurrently with the presidential primary under RCW (($\frac{29.13.010 \text{ or }}{29.13.020}$)) $\frac{29A.04.321 \text{ or } 29A.04.330}$, all measures or candidates for office for which the voters are eligible to vote at that special election shall be listed on the ballot in such a manner that each voter can identify and vote on those candidates or measures separately from the presidential primary candidates.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

- WAC 434-219-210 Issuing ((absentee and)) polling place ballots. (1) Polling place voters who make a political party declaration shall be issued either that party's separate ballot or a consolidated ballot marked to match the party declaration.
- (2) Polling place voters who do not make a political party declaration ((under WAC 434-219-140)) shall be presented either ((an unaffiliated)) a separate nonpartisan ballot, or a consolidated ballot ((coded as an unaffiliated ballot. Polling place voters who make a political party declaration under WAC 434-219-140 shall be presented either that party's ballot or a consolidated ballot coded to match their party oath.
- (2) Absentee ballot voters, except as provided in subsection (3) of this section if applicable, shall be issued all unaffiliated and political party ballots, either as separate ballots or as a consolidated ballot.
- (3) At the discretion of the county auditor, absentee ballots issued directly to the voter at the auditor's office may be issued in the same manner as polling place ballots provided that the voter marks, or verbally refuses to mark, the appropriate declaration on the return envelope prior to receiving the ballot)) that is marked to indicate no party affiliation.
- (3) Precinct election officers shall verbally remind voters how to properly vote the ballot consistent with the party declaration made.
- (4) Following the election, a notation of political party must be made in the voter registration files of those polling place voters who made a political party declaration.

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AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

- WAC 434-219-230 ((Segregation)) Processing of absentee ballots. ((Absentee)) (1) If the voter checked a political party declaration on the absentee ballot return envelope, a notation of the party checked must be made in the voter's registration file.
- (2) If the return envelope is not signed or the signature on the envelope does not match the signature on file, the county auditor must attempt to contact the voter as outlined in WAC 434-261-050. If the voter also failed to check a political party declaration, the county auditor must also provide the voter the opportunity to check a party declaration.
- (3) The ballot((s)) must be ((s) sorted according to major party declaration choice before ((t) it is removed from the return envelope((t)). ((t) ((t) accountability form segregated group shall be recorded on a ballot accountability form at each step of the absentee ballot canvassing process.)) Once the ballot is removed from the return envelope and secrecy envelope, it must be inspected and processed consistent with the party declaration on the return envelope.
- (4) If the voter's signature is verified, the voter may be credited with having participated in the election, even if the voter failed to check a political party declaration.

AMENDATORY SECTION (Amending WSR 00-03-003, filed 1/6/00, effective 2/6/00)

WAC 434-219-240 ((Inspection of absentee ballots.))
Canvassing consolidated ballots that include a party checkbox.
((Each absentee ballot cast by voters who signed a party declaration shall be inspected.

If a voter signs a party oath and votes for a candidate certified by the secretary of state for that party, that voter's ballot shall be grouped and tabulated with the ballots of that party. The number of ballots so voted shall be recorded on the ballot accountability form.

If a voter signs an unaffiliated oath, or does not sign an oath at all, that voter's ballot shall be grouped and tabulated with the unaffiliated ballots. The number of ballots so voted shall be recorded on the ballot accountability form.

Any voter who signs a party oath and then votes for a candidate certified by the secretary of state for a different party shall not have that vote tabulated.)) If a county auditor issues consolidated ballots that include a party checkbox on the ballot, the following canvassing protocols must be followed:

- (1) If a voter:
- (a) Signs a party declaration on the return envelope;

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- (b) Checks the party box on the consolidated ballot for the same party declared on the return envelope; and
- (c) Votes for candidates of the same party declared on the return envelope, the votes shall be counted.
 - (2) If a voter:
 - (a) Signs a party declaration on the return envelope;
- (b) Checks the party box on the consolidated ballot for the same party declared on the return envelope; and
- (c) Votes for candidates of a different party than declared on the return envelope, the partisan votes shall not be counted.
 - (3) If a voter:
 - (a) Signs a party declaration on the return envelope;
- (b) Checks the party box on the consolidated ballot for a different party than declared on the return envelope; and
- (c) Votes for candidates of the same party declared on the return envelope, the votes shall be counted.
 - (4) If a voter:
 - (a) Signs a party declaration on the return envelope;
- (b) Checks a party box on the consolidated ballot for a different party than declared on the return envelope; and
- (c) Votes for candidates of a different party than declared on the return envelope, the partisan votes shall not be counted.
 - (5) If a voter:
 - (a) Signs a party declaration on the return envelope;
 - (b) Fails to check a party box on the consolidated ballot; and
- (c) Votes for candidates of the same party declared on the return envelope, the votes shall be counted.
 - (6) If a voter:
 - (a) Signs a party declaration on the return envelope;
 - (b) Fails to check a party box on the consolidated ballot; and
- (c) Votes for candidates of a different party than declared on the return envelope, the partisan votes shall not be counted.
 - (7) If a voter:
 - (a) Signs a party declaration on the return envelope;
- (b) Checks more than one party box on the consolidated ballot; and
- (c) Votes for candidates of the same party declared on the return envelope, the votes shall be counted.
 - (8) If a voter:
 - (a) Signs a party declaration on the return envelope;
- (b) Checks more than one party box on the consolidated ballot; and
- (c) Votes for candidates of a different party than declared on the return envelope, the partisan votes shall not be counted.
 - (9) If a voter:
 - (a) Signs a party declaration on the return envelope;
- (b) Checks the party box on the consolidated ballot for the same party declared on the return envelope; and
- (c) Votes for candidates of more than one party, the partisan votes shall not be counted.
 - (10) If a voter:
 - (a) Signs a party declaration on the return envelope;

- (b) Checks the party box on the consolidated ballot for a different party than declared on the return envelope; and
- (c) Votes for candidates of more than one party, the partisan votes shall not be counted.
 - (11) If a voter:
 - (a) Signs a party declaration on the return envelope;
 - (b) Fails to check a party box on the consolidated ballot; and
- (c) Votes for candidates of more than one party, the partisan votes shall not be counted.
 - (12) If a voter:
 - (a) Signs a party declaration on the return envelope;
- (b) Checks more than one party box on the consolidated ballot; and
- (c) Votes for candidates of more than one party, the partisan votes shall not be counted.
- (13) If a voter signs a party declaration on the return envelope for more than one party, the partisan votes shall not be counted.
- (14) If a voter fails to sign a party declaration on the return envelope, the partisan votes shall not be counted.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

- WAC 434-219-250 ((Tabulation of)) Canvassing separate party ballots and consolidated ballots that do not include a party checkbox. (((1) Any voter who selects a party oath and votes for a candidate certified by the secretary of state for that party shall have that vote tabulated as a political party vote, regardless upon which ballot that vote is cast.
- (2) Any voter who selects the unaffiliated oath, shall have that vote tabulated as an unaffiliated vote, regardless upon which ballot that vote is cast.
- (3) Any voter who selects a party oath and then votes for a candidate certified by the secretary of state for a different party shall not have that vote tabulated.
- (4) If the voter does not select an oath, then no vote for president shall be tabulated.)) If a county auditor issues either separate party ballots or consolidated ballots that do not include a party checkbox on the ballot, the following canvassing protocols must be followed:
 - (1) <u>If a voter:</u>
 - (a) Signs a party declaration on the return envelope; and
- (b) Votes for candidates of the same party declared on the return envelope, the votes shall be counted.
 - (2) If a voter:
 - (a) Signs a party declaration on the return envelope; and
 - (b) Votes for candidates of a different party than declared on

the return envelope, the partisan votes shall not be counted.

- (3) If a voter:
- (a) Signs a party declaration on the return envelope; and
- (b) Votes for candidates of more than one party, the partisan votes shall not be counted.
- (4) If a voter signs a party declaration on the return envelope for more than one party, the partisan votes shall not be counted.
- (5) If a voter fails to sign a party declaration on the return envelope, the partisan votes shall not be counted.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

434-219-290 ((Canvassing and)) <u>C</u>ertification presidential primary by secretary of state. County canvassing boards shall certify the results of the presidential primary ((including the total number of write-in votes cast, by congressional and legislative districts, not later than the tenth day)) fifteen days following the primary. The county auditor shall ((send one original copy of)) transmit the returns ((by mail)) to the secretary of state ((on the same day the returns are immediately. ((Wherever applicable, the other certified)) procedures established by chapter 29.62 RCW for the canvassing of state primaries shall apply to the canvassing of a presidential primary.)) Not later than ((the thirtieth day)) twenty-one days following the presidential primary, the secretary of state shall certify the results of the presidential primary and notify the candidates and the chairperson of the national and state committees of each major political party of the votes cast for ((each)) all candidates listed on the ballot ((and of the write-in votes cast for any qualified write-in candidates)).

AMENDATORY SECTION (Amending WSR 00-03-003, filed 1/6/00, effective 2/6/00)

WAC 434-219-310 Statutory recount provisions do not apply. The provisions of chapter ((29.64)) 29A.64 RCW regarding statutory recounts do not apply to a presidential primary.

AMENDATORY SECTION (Amending WSR 00-03-003, filed 1/6/00, effective 2/6/00)

- WAC 434-219-320 <u>Transmittal of p</u>olitical party preference data and results((-Transmittal)) to the major political parties. No later than thirty days following ((the certification of the returns of)) the presidential primary ((by the secretary of state, the)):
- $\frac{(1)}{(1)}$), the results of the presidential primary by precinct($\frac{1}{(1)}$), and
- $((\frac{(2)}{(2)}))$ the names and addresses of $(\frac{(those)}{(those)})$ voters $(\frac{(those)}{(those)})$ registered in the county who signed a party oath for that party in a poll book, or signed a party declaration for that party on a return envelope and the signature was verified. $(\frac{(those)}{(those)})$ accomplished by either:
- (a) Integrating the ballot request and party preference data with the county voter registration file and producing a registered voter report containing the consolidated data in either machine-readable or printed format, which is provided to each major political party; or
- (b) Providing to each major political party copies of the political party declarations that indicate the primary in which the voter participated; or
- (c) Providing each major political party with a copy of the poll book pages upon which the voter has indicated the political party primary in which he or she participated and a separate report covering the declarations of absentee voters.))
- (2) Upon request, the secretary of state shall provide to the state committees of each major political party, at actual reproduction cost, the names and addresses of all voters registered in the state who signed a party oath for that party in a poll book, or signed a party declaration for that party on a return envelope and the signature was verified.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

WAC 434-219-330 Retention of election material. The county auditor shall maintain all presidential primary material, including ballot request forms, absentee ballot envelopes, poll books, and ballots, for a period of twenty-two months following the presidential primary. ((The auditor may, at any time after)) Sixty days following ((the)) certification of the ((returns)) presidential primary by the secretary of state, the county auditor

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<u>must</u> remove from ((his or her automated)) <u>the</u> voter registration files any record of ((the)) party designation ((of any voter casting a ballot at)) <u>in</u> the presidential primary.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

WAC 434-219-340 Claims for reimbursement. Following the presidential primary, each county auditor shall provide to the secretary of state a completed claim for reimbursement of expenses incurred by the county in conducting the primary. This cost shall be prorated with any other jurisdictions holding special elections in conjunction with the primary under RCW ((29.13.045)) 29A.04.410. The procedures for allocating such costs shall be the same as those prescribed by the office of the state auditor for election cost allocations to the state, cities, towns, and special purpose districts. Claims for reimbursement and supporting documents shall be submitted to the secretary of state not later than sixty days following the certification of the ((returns of the)) presidential primary by the secretary of state.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-219-020	Definitions.
WAC 434-219-070	Removal from list of designees.
WAC 434-219-160	Political party and unaffiliated
	ballotsArrangement.
WAC 434-219-165	Incomplete ballot code on
	consolidated absentee ballot.
WAC 434-219-220	Absentee ballotsDeclarations
	Instructions.
WAC 434-219-170	Order of political parties.
WAC 434-219-180	BallotsArrangement of names
	Instructions.
WAC 434-219-260	Canvassing and tabulation of
	presidential primary absentee
	ballots.
WAC 434-219-280	Votes not tabulated.

AMENDATORY SECTION (Amending WSR 06-14-049, filed 6/28/06, effective 7/29/06)

WAC 434-230-060 Primary votes required for appearance on general election ballot. Following any nonpartisan primary, no candidate's name shall be entitled to appear on the general election ballot unless he or she receives the greatest or the next greatest number of votes for the office and additionally receives at least one percent of the total votes cast for the office.

Following any partisan primary, no major political party candidate's name shall be entitled to appear on the general election ballot unless he or she receives a plurality of votes cast for the candidates of his or her party for that office. The requirement in RCW 29A.36.191 that a candidate for partisan office receive at least one percent of the votes cast for that office in order to appear on the general election ballot is unenforceable based on *Libertarian Party v. Sam Reed*, Thurston County Superior Court No. 04-2-01974-2 (2004).

((In those charter counties where provision is made in the county charter for the qualification of minor party and independent candidates, the charter provisions shall apply if the candidates has chosen that method for ballot qualification.))

AMENDATORY SECTION (Amending WSR 06-14-049, filed 6/28/06, effective 7/29/06)

wac 434-230-160 Poll-site voting instructions. The ballot shall identify the type of primary or election, the county, and the date of the primary or election. Prominently displayed in the voting booth or on the ballot shall appear instructions directing the voter how to correctly cast votes on issues and candidates, including write-in votes. ((The instructions shall read substantially as follows: To vote for a candidate or for or against a ballot measure, mark the voting position to the right of the candidate or ballot measure for whom you desire to vote. To vote for a person not on the ballot, write the title of the office, if applicable, the name of the candidate, and party affiliation if for a partisan office, in the space provided on the ballot and mark the write-in position.))

[1] OTS-1135.1

AMENDATORY SECTION (Amending WSR 07-09-036, filed 4/11/07, effective 5/12/07)

- WAC 434-250-040 Instructions to voters. (1) In addition to the instructions required by chapters 29A.36 and 29A.40 RCW, instructions for properly voting and returning an absentee ballot must also include:
- (a) How to correct a ballot by crossing out the incorrect vote and voting the correct choice;
- (b) Notice that, unless specifically allowed by law, more than one vote for an office or ballot measure will be an overvote and no votes for that office or ballot measure will be counted;
- (c) Notice that, if a voter has signed or otherwise identified himself or herself on a ballot, the ballot will not be counted;
- (d) How to complete and sign the affidavit on the return envelope;
- (e) How to make a mark, witnessed by two other people, if unable to sign the affidavit;
- (f) How to place the ballot in the security envelope and place the security envelope in the return envelope;
- (g) How to obtain a replacement ballot if the original ballot is destroyed, spoiled, or lost;
 - (h) Notice that postage is required, if applicable; and
- (i) Notice that, in order for the ballot to be counted, it must be either postmarked or deposited at a designated ((place)) deposit site no later than election day((, and providing the location, dates, and times for depositing the ballot as an alternative to mailing the ballot)); and
- (j) How a voter can learn about the locations, hours, and services, of voting centers and ballot deposit sites, including the availability of accessible voting equipment.

County auditors may use existing stock of absentee ballot instructions until ((January)) December 1, 2008.

- (2) Instructions that accompany a special absentee ballot must also include:
- (a) A listing of all offices and measures that will appear upon the ballot, together with a listing of all persons who have filed for office or who have indicated their intention to file for office; and
- (b) Notice that the voter may request and subsequently vote a regular absentee ballot, and that if the regular absentee ballot is received by the county auditor prior to certification of the election, it will be tabulated and the special absentee ballot will be voided.

[1]

OTS-1136.2

<u>AMENDATORY SECTION</u> (Amending WSR 07-09-036, filed 4/11/07, effective 5/12/07)

- WAC 434-250-050 Ballot materials. In addition to the instructions and in addition to materials required by chapters 29A.36 and 29A.40 RCW, each absentee ballot must be accompanied by the following:
- (1) A security envelope, which may not identify the voter and must have a hole punched in a manner that will reveal whether a ballot is inside;
- (2) A return envelope, which must be addressed to the county auditor and have a hole punched in a manner that will reveal whether the security envelope is inside. The return envelope must display the official election materials notice required by the United States Postal Service, the words "POSTAGE REQUIRED" or "POSTAGE PAID" in the upper right-hand corner, and the following oath with a place for the voter to sign, date, and write his or her daytime phone number:

I do solemnly swear or affirm under penalty of perjury that:

I am a citizen of the United States;

I am a legal resident of the state of Washington;

((I am entitled to vote in this election;))

I will be at least 18 years old on or before election day;

I am not presently denied my voting rights as a result of being convicted of a felony;

I have not been judicially declared mentally incompetent; I have not already voted in this election; and

((It is illegal to vote if I am not a United States citizen;

It is illegal to vote if I have been convicted of a felony and have not had my voting rights restored;))

<u>I understand it</u> is illegal to cast a ballot or sign ((an absentee)) a ballot envelope on behalf of another voter((; and)).

Attempting to vote when not ((entitled)) qualified, attempting to vote more than once, or falsely signing this oath is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both.

Signature	Date

The return envelope must include space for witnesses to sign. The return envelope must conform to postal department regulations.

County auditors may use existing stock of absentee envelopes until ((January)) <u>December</u> 1, 2008.

[2] OTS-1136.2

AMENDATORY SECTION (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

- WAC 434-253-024 Poll book of registered voters. (1) Poll books must be printed utilizing information from the official statewide voter registration data base. The poll book of registered voters must contain the name, residence address, sex, month and day of birth, and county voter registration number of each voter in the precinct, a listing of the districts in which that voter resides, and a designation of the applicable county, legislative district, and precinct, or a ballot code identifying this information. The names must be listed alphabetically by last name. The list must contain a space for each voter to sign his or her name and to verify his or her current address, and a space for the inspector or judge to credit the voter with having participated in a particular election.
- (2) The auditor may eliminate from poll books ongoing absentee voters and voters requesting absentee ballots for that election. The poll book must clearly indicate whether or not absentee voters are included on the list. If they are included, a notation must be made next to each absentee voter's name.
- (3) The list must include a notation for each <u>provisionally</u> registered voter who failed to satisfy the identity verification requirement during the registration process. Such a voter must be issued a provisional ballot, and the reason for the provisional ballot must be marked on the outer envelope, unless the voter first shows one of the following forms of identification, in which case the voter may be issued a regular ballot:
 - (a) Valid photo identification;
- (b) A valid enrollment card of a federally recognized tribe in Washington;
 - (c) A current utility bill;
 - (d) A current bank statement;
 - (e) A current government check;
 - (f) A current paycheck; or
- (g) A government document that shows both the voter's name and address, other than a voter registration card.
- (4) All voters must show one of the following forms of identification before signing the poll book:
- (a) Valid photo identification, such as a driver's license, state identification card, student identification card, or tribal identification card;
 - (b) A voter registration card;
 - (c) A current utility bill;
 - (d) A current bank statement;
 - (e) A current paycheck;
 - (f) A government check; or

[1]

(g) Another government document.

Any individual who cannot provide one of the above forms of identification must be issued a provisional ballot.

AMENDATORY SECTION (Amending WSR 06-23-094, filed 11/15/06, effective 12/16/06)

WAC 434-253-045 Provisional ballots--Required information.

A provisional ballot may only be voted on a direct recording electronic voting device if the voting system has been certified by the secretary of state for provisional voting and the county auditor has submitted approved procedures to the secretary of state. At a minimum, the following information is required to be printed on the outer ((provisional)) ballot envelope:

- (1) Name of voter.
- (2) Voter's registered address both present and former if applicable.
 - (3) Voter's date of birth.
 - (4) Reason for the provisional ballot.
- (5) Polling place and precinct number, if applicable, at which voter voted.
- (6) Sufficient space to list disposition of the ballot after review by the county auditor.
- (7) The following $((\frac{\text{oath}}{)})$ affidavit with a place for the voter to sign and date:

I do solemnly swear or affirm under penalty of perjury that:

I am a citizen of the United States;

I am a legal resident of the state of Washington;

((I am entitled to vote in this election;))

I will be at least 18 years old on or before election day;

I am not presently denied my voting rights as a result of being convicted of a felony;

<u>I have not been judicially declared mentally incompetent;</u> I have not already voted in this election;

((It is illegal to vote if I am not a United States citizen;

It is illegal to vote if I have been convicted of a felony and have not had my voting rights restored:

It is illegal to cast a ballot or sign an absentee envelope on behalf of another voter, except as otherwise provided by law;)) and

<u>I understand it is illegal to cast a ballot or sign a ballot envelope on behalf of another voter.</u>

Attempting to vote when not ((entitled)) qualified, attempting to vote more than once, or falsely signing this oath is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both.

Signature_	Date

[2] OTS-1137.2

County auditors may use existing stock of absentee envelopes until December 1, 2008.

AMENDATORY SECTION (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

WAC 434-253-047 Provisional ballots--Disposition. Upon receipt of the provisional ballot, including provisional ballots from other counties or states, the auditor must investigate the circumstances surrounding the provisional ballot prior to certification of the primary or election.

A provisional ballot cannot be counted unless the voter's name, signature and the date of birth, if available, matches a voter registration record.

Once the provisional ballot has been investigated, disposition of the ballot is as follows:

- (1) If there is no record of the voter ever having been registered, the voter must be offered the opportunity to register and the provisional ballot is not counted.
- (2) If the voter was previously registered and later canceled and the auditor determines that the cancellation was in error, the voter's registration must be immediately restored and the provisional ballot counted.
- (3) If the voter was previously registered and later canceled and the auditor determines that the cancellation was not in error, the voter must be offered the opportunity to reregister and the provisional ballot is not counted.
- (4) If the voter is a registered voter but has voted a ballot other than the one which the voter would have received for his or her precinct, the auditor must ensure that only those votes for the positions and measures for which the voter was eligible to vote are counted.
- (5) If the voter is a registered voter in another county, the auditor shall forward the ballot and a corresponding voter guide, or other means by which the ballot can be interpreted, to the supervisor of elections for the jurisdiction in which the voter is registered. The ballot must be forwarded within seven calendar days after a primary or special election and fifteen calendar days after a general election, and as soon as possible if past that date.
- (6) If an absentee voter who voted a provisional ballot at the polls has already returned a voted absentee ballot, the provisional ballot is not counted. If the absentee voter who voted a provisional ballot at the polls has not returned a voted absentee ballot, the provisional ballot is counted. If a voted absentee ballot is returned after the provisional ballot has been counted, the absentee ballot is not counted.
 - (7) If the voter voted a provisional ballot because he or she

[3] OTS-1137.2

failed to produce identification at the polls as required by RCW 29A.44.205 and pursuant to WAC 434-253-024(4), the ballot is counted if the signature on the envelope matches the signature in the voter registration record.

- (8) If the voter voted a provisional ballot because the <u>voter</u> <u>is provisionally registered and the</u> voter's registration record is <u>still</u> flagged as requiring verification of identity, ((and the voter failed to provide identification pursuant to WAC 434-253-024(3) or 434-261-055,)) the provisional ballot is not counted.
- (9) Provisional ballots voted for reasons not covered by this section or state statute must be determined by the county canvassing board.

AMENDATORY SECTION (Amending WSR 07-09-036, filed 4/11/07, effective 5/12/07)

- WAC 434-261-005 Definitions. (1) "Manual inspection" is the process of inspecting each voter response position on each voted ballot. Inspection is performed on an absentee ballot as part of the initial processing, and on a poll ballot after breaking the seals and opening the ballot containers from the precincts or, in the case of precinct counting systems, prior to the certification of the election;
- (2) "Duplicating ballots" is the process of making a true copy of valid votes from ballots that may not be properly counted by the vote tallying system. Ballots may be duplicated on blank ballots or by making changes on an electronic image of the ballot. The original ballot may not be altered in any way;
- (3) "Readable ballot" is any ballot that the certified vote tallying system can accept and read as the voter intended without alteration, and that meets the standards of the county canvassing board subject to the provisions contained in this title;
- (4) "Unreadable ballot" is any ballot that cannot be read by the vote tallying system as the voter intended without alteration. Unreadable ballots may include, but not be limited to, ballots with damage, write-in votes, incorrect or incomplete marks, and questions of vote intent. Unreadable ballots may subsequently be counted as provided by these administrative rules;
- (5) "Valid signature" on a ballot envelope for a registered voter eligible to vote in the election is:
- (a) A signature verified against the signature in the voter registration file; or
 - (b) On an absentee ballot envelope, a mark with two witnesses.

<u>AMENDATORY SECTION</u> (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

WAC 434-261-055 Returned ballot lacking verification of identity. If a voter who is provisionally registered and must still ((must)) verify his or her identity as part of the registration process votes an absentee or provisional ballot without providing adequate identification, the ballot cannot be counted unless the voter provides adequate identification no later than the day before certification of the election.

[1] OTS-1138.2

AMENDATORY SECTION (Amending WSR 07-12-032, filed 5/30/07, effective 6/30/07)

WAC 434-324-005 Definitions. As used in this chapter:

- (1) "Active status" means a designation assigned to voters with complete voter registration records signifying that the voter is eliqible to vote.
- (2) "Applicant" means a person who has applied, or is applying, to become a registered voter in the state of Washington.
- (3) "Auditor" means "county auditor" and means the county auditor in a noncharter county or the officer in a charter county, irrespective of title, having the overall responsibility to maintain voter registration to conduct state and local elections.
- (4) "County election management system" means software used by county auditors to manage computer files pertaining to elections and includes, but is not limited to, voter registration records.
- (5) "County registration number" means an identifier assigned to each registered voter by the county auditor.
- (6) "Motor voter data" means computer information concerning an applicant that is common to both driver's license and voter registration records. This includes name, address, date of birth, sex, the date of the application, the location of the office where the application was submitted, the applicant's driver's license number, the applicant's Social Security number (if provided), and the applicant's previous driver's license number if the applicant has changed names.
- (7) "Electronic registration" means the electronic submission of voter registration applications.
- (8) "Extraction," as used in this chapter, means the creation of an electronic list of specific information from the entire official statewide voter registration data base.
- $((\frac{(8)}{(8)}))$ "Late registration absentee ballot" means an absentee ballot cast by a voter who registered pursuant to RCW 29A.08.145 after the close of the regular registration period.
- $((\frac{9}{}))$ <u>(10)</u> "Licensing agent" or "agent" means the employees serving the public at driver's licensing offices operated by the department of licensing.
- $((\frac{(10)}{(10)}))$ "New county" means a county in Washington state that a registered voter is moving to from another county within Washington state.
- $((\frac{(11)}{(11)}))$ <u>(12)</u> "Previous county" means a county in Washington state that a registered voter lived in prior to moving to a new county.
- $((\frac{12}{12}))$ <u>(13)</u> "Pending status" means a voter registration record is not yet complete, and the applicant is not yet a registered voter.
 - $((\frac{(13)}{(13)}))$ <u>(14)</u> "Pending cancellation" means the registered

[1] OTS-1139.2

voter's registration record must be canceled within a specified amount of time and he or she is not eligible to vote.

- $((\frac{14}{1}))$ <u>(15)</u> "Registered voter" means any elector who has completed the statutory registration procedures established by Title 29A RCW.
- $((\frac{(15)}{(15)}))$ <u>(16)</u> "Secretary" means secretary of state or any other person authorized by the secretary of state to act on his or her behalf.
- $((\frac{(16)}{(16)}))$ "State registration number" means a unique identifier assigned to each registered voter by the state, pursuant to RCW 29A.08.651.

AMENDATORY SECTION (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

WAC 434-324-010 County election management system-Applications for voter registration. (1) Each auditor must enter and maintain voter registration records in the official statewide voter registration data base by using a county election management system. Each record must contain at least the following information from the voter registration ((form)) application in a format compatible with the official statewide voter registration data base:

- (a) Name;
- (b) Complete residential address;
- (c) Complete mailing address;
- (d) County registration number;
- (e) State registration number;
- (f) Gender;
- (q) Date of birth;
- (h) Date of registration;
- (i) Applicable district and precinct codes;
- (j) Dates upon which the individual has voted, if available;
- (k) Washington state driver license number, Washington state identification card number, and/or the last four digits of the applicant's Social Security number; and
- (1) A scanned image file (format .tiff) of the applicant's signature.
- (2) In the case of an applicant who applies for voter registration by mail and sends a copy of one of the alternative forms of identification listed in RCW 29A.08.113 for registration purposes, the auditor must either maintain a scanned image of the identifying document or make a notation in the registration record indicating which alternative form of identification was provided to the auditor. Pursuant to RCW 29A.08.710, a scanned image of the identification is not available for public inspection or copying.
- (3) Upon entry of an applicant's information, the auditor must check for duplicate entries.

[2] OTS-1139.2

(4) Each auditor must have a quality assurance program to maintain accurate data entry into the statewide voter registration data base.

NEW SECTION

- WAC 434-324-031 Electronic voter registration. (1) The secretary of state's electronic voter registration web page must have the capability to:
- (a) Reject applicants without a Washington state driver's license or state identification card;
- (b) Require the applicant to affirmatively assent to the use of his or her driver's license or state identification card signature for voter registration purposes;
- (c) Require the applicant to attest to the truth of the information provided on the application;
- (d) Retrieve a digital copy of each applicant's driver's license or state identification card signature from the department of licensing and include it with the other information required for each applicant's voter registration; and
- (e) Electronically transfer all information required for each applicant's voter registration to his or her county auditor for entry into the statewide voter registration data base through the county election management system.
- (2) Once election registration information is entered into county election management systems, the same timelines and processes used for registration by mail apply to electronic registration.

AMENDATORY SECTION (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

- WAC 434-324-040 Data transfer to secretary and registration status. (1) Following entry into the county election management system, all information in the application for voter registration must be transferred electronically to the secretary for identity verification. The secretary must assign the application a state identification number.
- (2) If the applicant provided a Washington driver's license number or state identification card number, the applicant's identity is verified with the department of licensing. If the applicant provided the last four digits of his or her Social Security number, the applicant's identity is verified with the Social Security Administration through the department of licensing.

[3] OTS-1139.2

- (3) If the applicant's identity is not verified in the computerized verification process, the secretary must notify the county election management system accordingly. The county auditor must first confirm the accuracy of the information entered in the county election management system from the voter registration application. The county auditor must correct any errors and again attempt to verify the applicant's identity automatically.
- (4) If the applicant provided a Washington driver's license number or state identification number and the identity is not verified in the computerized verification process, the information on the application may be considered a "match" if the number on the application exactly matches a number issued by the department of licensing, and it is clear to the county auditor that the information on the application describes the person on the department of licensing record. Reasons that the county auditor may conclude that the information on the application describes the person on the department of licensing record include, but are not limited to, the following:
- (a) The first, middle, or last name on the application is a variation of the first, middle, or last name in the department of licensing record;
- (b) The first, middle, or last name has transposed letters or another typographical error on the application or in the department of licensing record;
- (c) The first and last names are transposed on the application or in the department of licensing record;
- (d) The first and middle names are transposed on the application or in the department of licensing record;
- (e) The applicant has a compound or hyphenated name which is not accurately or completely set forth on the application or in the department of licensing record;
- (f) The first or middle name is abbreviated with initials on the application or in the department of licensing record;
- (g) The last name on the application and the last name in the department of licensing record are not the same but, based on other information, the county auditor concludes that one of the names is a maiden name or a former name of the same person; or
- (h) The month and day of the applicant's date of birth are transposed on the application or in the department of licensing record.
- If the county auditor concludes that the information on the application describes the person on the department of licensing record, the county auditor must override the computerized failure to verify and must note the reason it is considered a match. The county auditor must place the applicant on the official list of registered voters in active status.
- (5) If the applicant's identity is not verified in the computerized verification process, either because the information did not match or because the applicant claimed he or she did not have a driver's license or Social Security number, the applicant must be ((placed on the official list of registered voters in active status, but)) provisionally registered. The registration

[4] OTS-1139.2

record must be flagged as still requiring verification of the applicant's identity before the applicant's ballot may be counted.

AMENDATORY SECTION (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

WAC 434-324-045 Verification of applicant's identity. (1) If the applicant(('s identity is not verified in the computerized verification process outlined in)) is provisionally registered pursuant to WAC 434-324-040(5), the county auditor must verify the applicant's identity before counting the applicant's ballot. The county auditor may use other government resources and public records to confirm the applicant's driver's license or state identification card number or the last four digits of the applicant's Social Security number. The county auditor may also attempt to ((verify the applicant's identity by contacting)) contact the applicant by phone, e-mail or other means to obtain identification information.

(2) If the county auditor ((has not successfully verified)) is still unable to verify the applicant's identity, the county auditor must send the applicant an identity verification notice that includes a postage prepaid, preaddressed form by which the applicant may verify or send information. The identity verification notice must be in substantially the following form:

Dear '	Voter:	[date]

Thank you for submitting a voter registration application. <u>Because we were unable to verify your identity based on the information you provided, you are now provisionally</u> registered to vote.

((However,)) Federal law requires that you provide identification either before or when you vote. If you fail to provide identification, your ballot will not be counted.

Please provide one of the following:

First	M.I.	Last	date of birtl
The last four digits	of your Social Security number	er:	
Your name and date	of birth as maintained by the	Social Security Adminis	tration:

- A copy of one of the following:
 - Valid photo identification;
 - A valid enrollment card of a federally recognized tribe in Washington;

[5] OTS-1139.2

- A current utility bill;
- A current bank statement;
- A current government check;
- A current paycheck; or
- A government document that shows both your name and address.

Please provide this documentation as soon possible. If it is not provided, your ballot will not be counted.

If you have any questions, please for	eel free to contact the	_ County Auditor's Office at _	·
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- (3) If the applicant responds with updated driver's license, state ID card, or Social Security information, or with a copy of one of the alternative forms of identification, the flag on the voter registration record must be removed, allowing the applicant's ballot to otherwise be counted the first time he or she votes after registering.
- (4) If the applicant fails to respond with adequate documentation to verify his or her identity, the applicant's voter registration record must remain flagged. If the applicant votes absentee, he or she must be notified that the ballot will not be counted unless he or she provides adequate verification of identity.
- (5) A provisional registration must remain on the official list of registered voters for at least two general elections for federal office. If, after two general elections for federal office, the voter still has not verified his or her identity, the provisional registration may be canceled.

[6] OTS-1139.2

AMENDATORY SECTION (Amending WSR 07-20-074, filed 10/1/07, effective 11/1/07)

- WAC 434-335-030 Initial application for certification. Any person or corporation (applicant) owning or representing a voting system or a vote tabulating system, part of a system, equipment, materials or procedure may apply in writing to the secretary of state for certification December 1st and ending June 30th the following year. Certification examinations and hearings are only conducted between ((January)) December 1st and September 15th of each year.
- (1) The application must include, but is not limited to, the following information:
- (a) Description of the applicant, business address, customer references, and list of election products.
- (b) Description of the equipment under review, version numbers, release numbers, operating and maintenance manuals, training materials, and technical and operational specifications.
- (c) Documentation of all other states that have tested, certified and used the equipment in a binding election, and the length of time used in that state. The information for each state must include the version numbers of the operating system, software, and firmware, the dates and jurisdictions, and any reports compiled by state or local governments concerning the performance of the system.
 - (d) A monetary deposit as described in WAC 434-335-080.
- (e) A copy of a letter from the applicant to each independent testing authority (ITA) which:
- (i) Directs the ITA to send a copy of the completed ITA qualification report to the secretary of state;
- (ii) Authorizes the ITA to discuss testing procedures and findings with the secretary of state; and
- (iii) Authorizes the ITA to allow the secretary of state to review all records of any qualification testing conducted on the equipment.
- (f) A technical data package (TDP) conforming to the 2002 FEC Federal Voting Systems Standards (FVSS), Vol. II, Sec. 2 standards that includes:
- (i) Identification of all COTS hardware and software products and communications services used in the operation of the voting system (ref. FVSS, 2.2.1.e);
 - (ii) A system functionality description (ref. FVSS, 2.3);
 - (iii) A system security specification (ref. FVSS, 2.6);
 - (iv) System operations procedures (ref. FVSS, 2.8);
 - (v) System maintenance procedures (ref. FVSS, 2.9);
- (vi) Personnel deployment and training requirements (ref. FVSS, 2.10);

[1] OTS-1140.1

- (vii) Configuration management plan (ref. FVSS, 2.11);
- (viii) System change notes (if applicable, ref. FVSS, 2.13);
- (ix) A system change list, if any, of modifications currently in development; ((and))
 - (x) A system usability testing report; and
- (xi) A set of procedures for county personnel on how the operating system, equipment, and application software should be optimally configured and used in a secure environment.
- (2) The vendor must either file the system executables for the certified system with the National Software Reference Library (NSRL) or place the source code of an electronic voting system in escrow, which must be accessible by the secretary of state under prescribed conditions.
- (3) All documents, or portions of documents, containing proprietary information are not subject to public disclosure. The secretary of state must agree to use proprietary information solely for the purpose of analyzing and testing the system, and to the extent permitted by law, may not use the proprietary information or disclose it to any other person or agency without the prior written consent of the applicant.

AMENDATORY SECTION (Amending WSR 05-18-022, filed 8/29/05, effective 9/29/05)

WAC 434-335-060 Examination of equipment. Secretary of state staff will initiate an examination of the applicant's equipment after receiving a completed application and a working model of the equipment, documentation, and software to be reviewed. The examination consists of a series of functional application tests designed to insure that the system or equipment meets all applicable federal guidelines, and state law and rules. The examination may include an additional independent testing authority test at the discretion of the secretary of state. The examination shall include the set-up and conduct of two mock elections. The applicant shall provide ballot materials ((and)) after the secretary of state has set up the programming to create these elections. The independent testing authority will provide the voting system software they tested directly to the secretary of state.

- (1) The first election must replicate an even year general election.
- (2) The second election must replicate an odd year primary, and include the use of split precincts and precinct election officer contests.

Both elections must feature at least ten precincts, with at least ten ballots in each precinct. The tests must include ballots of various ballot codes, including multiple candidates, cumulative reports, precinct reports, and canvass reports, as detailed in the

[2] OTS-1140.1

test plan provided by the secretary of state.

[3] OTS-1140.1

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